

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

MICHELLE LAWRENCE,  
Derivatively and on Behalf of ITT  
EDUCATIONAL SERVICES,  
INC.,

Plaintiff,

v.

KEVIN MODANY, DANIEL M.  
FITZPATRICK, JOHN E. DEAN,  
JOHN F. COZZI, JAMES D.  
FOWLER, JR., JOANNA T. LAU,  
VIN WEBER, and JOHN A.  
YENA,

Defendants,

and

ITT EDUCATIONAL SERVICES,  
INC.,

Nominal Defendant.

**Case No. 1:14-cv-2106-TWP-DML**

**PLAINTIFF’S UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL**

Plaintiff, by counsel, derivatively on behalf of nominal defendant ITT Educational Services, Inc., hereby moves to voluntarily dismiss the above-captioned action (the “Action”) with prejudice.

On April 6, 2016, the U.S. District Court for the Southern District of New York, in the related shareholder derivative action captioned *Wilfred v. Modany, et al.*, Case No. 13-CV-3110 (JPO), entered a Final Order and Judgment (the “Judgment”): (1) approving a global settlement of several similar derivative actions,

including this Action; (2) approving the settlement notice provided to ITT shareholders which apprised them of the settlement and dismissal of the claims asserted in this Action; and (3) dismissing with prejudice all claims arising out of the same facts and circumstances alleged in this Action. (Dkt. 19-1). Pursuant to the terms of the Stipulation and Agreement of Settlement (the “Settlement”) (previously filed with the Court on January 25, 2016), the Judgment is now “Final.” (Dkt. 16-1 ¶ 1.13). Accordingly, Plaintiff hereby moves for dismissal with prejudice of this Action, with each party to bear its own costs and fees except as provided for in the Judgment and Settlement. In light of the settlement notice furnished to ITT shareholders in the *Wilfred* action, no additional notice to ITT shareholders is required or appropriate. Plaintiff has consulted with defense counsel, who states that Defendants do not oppose this motion.

WHEREFORE, Plaintiff respectfully requests that this Court dismiss this Action with prejudice.

Respectfully submitted,

PRICE WAICUKAUSKI  
JOVEN & CATLIN, LLC

**/s/ BRAD A. CATLIN**  
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*Attorneys for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Philip A. Whistler  
ICE MILLER LLP  
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/s/ Brad A. Catlin  
Brad A. Catlin